

**IN THE CLAIMS:**

Claims 1-36 (cancelled)

37. (Currently amended) A spinal surgical instrument for distracting a disc space, comprising:

a shaft extending between a proximal end and a distal end; and

an inflatable portion adjacent said distal end, said inflatable portion having a reduced size configuration for insertion into the disc space and an enlarged inflated configuration, wherein when in said inflated configuration said inflatable portion defines an upper vertebral endplate contacting surface and an opposite lower vertebral endplate contacting surface, each of said upper and lower vertebral endplate contacting surfaces having a vertebral endplate contacting area no greater than in the range of 0.1 square inches to 0.5 square inches.

38. (original) The instrument of claim 37, wherein said shaft defines an inflation lumen in communication with said inflatable portion.

39. (withdrawn) The instrument of claim 37, wherein each of said vertebral endplate contacting surfaces has an oval shape.

40. (withdrawn) The instrument of claim 37, wherein each of said vertebral endplate contacting surfaces has a circular shape.

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41. (withdrawn) The instrument of claim 37, wherein each of said vertebral endplate contacting surfaces has a generally rectangular shape.

42. (withdrawn) The instrument of claim 37, wherein each of said vertebral endplate contacting surfaces has a first contacting node and a second contacting node and said inflatable portion includes a concave surface extending between said first and second contacting nodes.

43. (withdrawn) The instrument of claim 42, wherein when in said inflated configuration said inflatable portion is sized to contact vertebral endplates adjacent the disc space and restore the disc space to a desired disc space height, said inflatable portion is further sized and shaped in the anterior, posterior and lateral directions to occupy the disc space with a void formed between the inflatable portion and an inner wall of an annulus surrounding the disc space annulus.

Claims 44-47 (cancelled)

48. (previously presented) The instrument of claim 37, further comprising a channel for delivery of a material in a first condition about said inflatable portion when said inflatable portion is in said inflated configuration in the disc space, said material being changeable to a second condition after delivery.

49. (previously presented) The instrument of claim 48, wherein said channel

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comprises a portion of a cannula separable from said shaft.

50. (previously presented) The instrument of claim 48, wherein said channel comprises a portion of said shaft.

51. (previously presented) The instrument of claim 48, wherein said material comprises a bone cement, said bone cement being flowable in said first condition and curable to obtain a solid body between upper and lower vertebral endplates adjacent the disc space in said second condition.

52. (withdrawn) The instrument of claim 37, wherein in said inflated configuration said inflatable portion includes a center cylindrical portion extending along vertebral endplates adjacent the disc space and opposite frusto-conical portions tapering from said center cylindrical portion.

53. (withdrawn) The instrument of claim 52, wherein each of said frusto-conical portions includes a first frusto-conical portion adjacent said cylindrical portion and a second frusto-conical portion tapering from said first frusto-conical portion away from said cylindrical body portion, said first frusto-conical portions each defining a portion of said upper and lower vertebral endplate contacting surfaces.

54. (withdrawn) The instrument of claim 37, wherein in said inflated configuration said inflatable portion includes a cylindrical shape extending between the

vertebral endplates and circular vertebral endplate contacting surfaces at opposite ends thereof.

55. (withdrawn) The instrument of claim 37, wherein in said inflated configuration said inflatable portion includes a cylindrical shape extending along the vertebral endplates and oval vertebral endplate contacting surfaces along opposite sides thereof.

56. (previously presented) The instrument of claim 37, wherein in said inflated configuration said inflatable portion includes a spherical shape and circular vertebral endplate contacting surfaces on opposite sides thereof.

Claims 57-85 (cancelled)

86. (new) A spinal surgical instrument for distracting a disc space, comprising:  
a shaft extending between a proximal end and a distal end; and  
an inflatable portion adjacent said distal end, said inflatable portion having a reduced size configuration for insertion into the disc space and an enlarged inflated configuration, wherein when in said inflated configuration said inflatable portion defines an upper vertebral endplate contacting surface and an opposite lower vertebral endplate contacting surface, wherein in said inflated configuration said inflatable portion includes a spherical shape and circular vertebral endplate contacting surfaces on opposite sides thereof.

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87. (new) The instrument of claim 86, wherein each of said upper and lower vertebral endplate contacting surfaces define a vertebral endplate contacting area no greater than 0.5 square inches.

88. (new) The instrument of claim 86, wherein said shaft defines an inflation lumen in communication with said inflatable portion.

89. (new) The instrument of claim 86, further comprising a channel for delivery of a material in a first condition about said inflatable portion when said inflatable portion is in said inflated configuration in the disc space, said material being changeable to a second condition after delivery.

90. (new) The instrument of claim 89, wherein said channel comprises a portion of a cannula separable from said shaft.

91. (new) The instrument of claim 89, wherein said channel comprises a portion of said shaft.

92. (new) The instrument of claim 89, wherein said material comprises a bone cement, said bone cement being flowable in said first condition and curable to obtain a solid body between upper and lower vertebral endplates adjacent the disc space in said second condition.

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